



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

0000004

0000005

JAN 27 1994

REPLY TO THE ATTENTION OF

HSE-5J

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

EPA Region 5 Records Ctr.



225327

The Chicago Dock & Canal Trust  
c/o Vincent S. Oleskiewicz, Esq.  
Baker & McKenzie  
One Prudential Plaza  
130 East Randolph Street, Suite 3200  
Chicago, Illinois 60601

Re: Lindsay Light II Site  
316 East Illinois Street  
Chicago, Illinois

Dear Mr. Oleskiewicz:

Enclosed please find an executed copy of the Administrative Order by Consent issued for this Site pursuant to Sections 106 and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. § 9606 and 9622. Thank you for your cooperation in this matter.

Per your letter to Verneta Simon dated January 11, 1994, please be advised that the U.S. Environmental Protection Agency ("U.S. EPA") approves STS Consultants, Ltd., MJW Corporation, and IT Corporation Laboratory as the contractors your client has chosen to undertake and complete the requirements of the Order. In addition, U.S. EPA acknowledges your client's designation of Richard Berggreen of STS Consultants, Ltd. as their Project Coordinator.

If you have any questions regarding this Order, please contact Marc Radell, Assistant Regional Counsel, at (312) 886-7948 or Verneta Simon, On-Scene Coordinator, at (312) 886-3601.

Sincerely yours,

*William E. Muno*  
for William E. Muno, Director  
Waste Management Division

Enclosure

cc: Gary King, IEPA Superfund Coordinator

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION V

IN THE MATTER OF:

Lindsay Light II Site  
316 East Illinois Street  
Chicago, Illinois

Respondent:

The Chicago Dock & Canal Trust

) Docket No. **V-W- '94-C-223**

)  
) ADMINISTRATIVE ORDER BY  
) CONSENT PURSUANT TO  
) SECTION 106 OF THE  
) COMPREHENSIVE  
) ENVIRONMENTAL RESPONSE,  
) COMPENSATION AND  
) LIABILITY ACT OF 1980,  
) as amended, 42 U.S.C.  
) Section 9606(a)

PREAMBLE

The United States Environmental Protection Agency (U.S. EPA) and the Respondent have each agreed to the making and entry of this Order by Consent.

It is issued pursuant to the authority vested in the President of the United States by Sections 106(a) and 122 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Section 9606(a), as amended by the Superfund Amendments and Reauthorization Act of 1986, Pub. L. 99-499 (CERCLA), and delegated to the Administrator of the U.S. EPA by Executive Order No. 12580, January 23, 1987, 52 Federal Register 2923, and further delegated to the Assistant Administrator for Solid Waste and Emergency Response and the Regional Administrators by U.S. EPA Delegation Nos. 14-14, 14-14-C and 14-14-D, and to the Director, Waste Management Division, Region V, by Regional Delegation Nos. 14-14-A, 14-14-C and 14-14-D.

A copy of this Order will also be provided to the State of Illinois, which has been notified of the issuance of this Order as required by Section 106(a) of CERCLA, 42 U.S.C. Section 9606(a).

This Order requires the Respondent to undertake and complete emergency investigation and sampling activities to abate conditions which may present an imminent and substantial endangerment to the public health or welfare or the environment because of an actual or threatened release of hazardous substances at the Site.

FINDINGS

Based on available information, including the Administrative Record in this matter, U.S. EPA hereby finds:

1. The Lindsay Light II Site ("the Site" or "the Facility") is located at 316 East Illinois Street, Chicago, Cook County, Illinois. The Site is situated in a urban area called the Gold Coast, and is surrounded by commercial and residential buildings. A shopping mall is located approximately 200 feet to the southeast. The Chicago River is located 1 mile south of the Site and Lake Michigan is about 1.5 miles east of the Site.
2. The Site is currently a parking lot operated by General Parking and owned by The Chicago Dock and Canal Trust.
3. Until 1936, Lindsay Light manufactured incandescent gas mantels at 161 East Grand, which is .25 miles from the Site. It is unknown if they worked elsewhere; however, Sanborn maps from 1906 do show Lindsay Light being at other Chicago locations. During 1931-1936, the company moved its operations to West Chicago, Illinois.
4. The principle ingredient in gas mantle manufacture is thorium as a nitrate. Small amounts of cerium, beryllium and magnesium nitrates are also used. Thorium occurs principally as the parent radionuclide thorium-232 in association with its daughter products in a decay sequence known as the Thorium Decay Series. Thorium radionuclides are also found in the Uranium Decay Series and the Actinium Decay Series. It is believed that the principal source of contamination at this Site is the Thorium Decay Series.
5. It is unclear what Lindsay Light actually did at 316 East Illinois; however, records from The Chicago Dock and Canal Trust indicate this Site was a stable, and that Lindsay Light leased portions of the building from The Chicago Dock and Canal Trust from 1915-1933.
6. On June 3, 1993, U.S. EPA and the Illinois Department of Nuclear Safety conducted a joint investigation at the Site. This investigation verified the presence of radioactivity at levels clearly above natural background. Gamma readings were found as high as 280 uR/hr on a Ludlum Model 19 Micro-R meter. Background measured at the Site had gamma readings of 20 uR/hr.

#### DETERMINATIONS

Based on the foregoing Findings, U.S. EPA has determined that:

1. The Lindsay Light II Site is a "facility" as defined by Section 101(9) of CERCLA, 42 U.S.C. Section 9601(9).

2. The Chicago Dock & Canal Trust is a "person" as defined by Section 101(21) of CERCLA, 42 U.S.C. Section 9601(21).
4. Radionuclides are "hazardous substances" as defined by Section 101(14) of CERCLA, 42 U.S.C. Section 9601(14).
5. The detection of gamma rays as high as 280 uR/hr constitutes an actual or threatened "release" as that term is defined in Section 101(22) of CERCLA, 42 U.S.C. Section 9601(22).
6. The actual or threatened release of hazardous substances from the Facility may present an imminent and substantial endangerment to the public health, welfare, or the environment.
7. The actions required by this Order, if properly performed, are consistent with the National Contingency Plan (NCP), 40 CFR Part 300, as amended, and CERCLA; and are reasonable and necessary to protect the public health, welfare and the environment because of the following factors:

- a. **actual or potential exposure to nearby human populations, animals, or the food chain from hazardous substances, pollutants or contaminants;**

This factor is present at the Facility due to the existence of a public parking lot on property found to have gamma readings measured as high as 280 microroentgen per hour (uR/hr) on a Ludlum Model 19 Micro-R meter. Gamma rays are penetrating radiations indistinguishable from X-rays which can be absorbed by tissue in the human body. Furthermore, there are two parking attendants stationed at this parking lot on a 24-hour basis to collect fees, although initial readings taken on June 3, 1993, indicate that there were no levels above background where the attendants are stationed. U.S. EPA is monitoring the area to determine the potential dose. The Site is also surrounded by commercial and residential buildings, whose occupants use this parking lot and adjacent sidewalks. Situated 200 feet southeast of the Site is the North Pier shopping mall.

- b. **high levels of hazardous substances or pollutants or contaminants in soils largely at or near the surface, that may migrate;**

This factor is present at the Facility due to the existence of elevated gamma levels as high as 280 uR/hr on a Ludlum Model 19 Micro-R meter, as compared to 20 uR/hr for background as measured at the Site. These gamma levels may indicate higher levels in the soils because the parking lot is covered with asphalt and/or concrete, which attenuates radiation.

- c. other situations or factors which may pose threats to public health or welfare or the environment.

This factor is present at the Facility due to the property's potential for future development. Such construction might entail excavating into potentially contaminated soils for placement of building footings and cause increased releases into the environment and human exposure to contaminants.

#### ORDER

Based upon the foregoing Findings and Determinations, and pursuant to Section 106(a) of CERCLA, 42 U.S.C. Section 9606(a), it is hereby ordered and agreed that Respondent will undertake the following actions at the Facility:

1. Within sixty (60) calendar days after the effective date of this Order, the Respondent shall submit to U.S. EPA for approval, a Work Plan for the investigation and sampling activities ordered as set forth in Paragraph 4 below. The Work Plan shall provide a concise description of the activities to be conducted to comply with the requirements of this Order. The Work Plan shall be reviewed by U.S. EPA, which may approve, disapprove, require revisions, or modify the Work Plan. Respondent shall implement the Work Plan as finally approved by U.S. EPA, including any modifications. Once approved, the Work Plan shall be deemed to be incorporated into and made a fully enforceable part of this Order.
2. The Work Plan shall contain a site safety and health plan, a sampling and analysis plan, and a schedule of the work to be performed. The site safety and health plan shall be prepared in accordance with the Occupational Safety and Health Administration (OSHA) regulations applicable to Hazardous Waste Operations and Emergency Response, 29 CFR Part 1910, and with Illinois Department of Nuclear Safety (IDNS) regulations pertaining to radiation workers, non-radiation workers, and the general public, 32 Illinois Administrative Code Part 340. The Work Plan and other submitted documents shall demonstrate that the Respondent can properly conduct the actions required by this Order.
3. Respondent shall retain a contractor qualified to undertake and complete the requirements of this Order, and shall notify U.S. EPA of the name of such contractor within five (5) business days of the effective date of this Order. U.S. EPA retains the right to disapprove of any, or all, of the contractors and/or subcontractors retained by the Respondent. In the event U.S. EPA disapproves of a selected contractor, Respondent shall retain a different contractor to perform the work, and such selection shall be made within two (2) business days following U.S. EPA's disapproval.

4. Within thirty (30) calendar days after U.S. EPA approval of the Work Plan, Respondent shall commence implementation of the Work Plan as approved or modified by U.S. EPA. Failure of the Respondent to properly implement all aspects of the Work Plan shall be deemed to be a violation of the terms of this Order. The Work Plan shall require the Respondent to perform, and complete within one hundred fifty (150) calendar days after approval, the following investigation and sampling activities:

- a. Develop and implement a Site Health and Safety Plan.
- b. Conduct land surveying to the extent necessary to locate all property boundaries and features, sample locations and areas having elevated radiation levels.
- c. Place borings in several locations for the purpose of measuring subsurface radiation levels. Measurements shall be recorded until the natural soils are reached or radiation levels reach background, whichever is the greatest depth.
- d. Collect soil samples from the borings and analyze for radionuclide content and RCRA characteristics. These results will then be used by the Respondent to correlate subsurface radiation levels and radionuclide content.

5. All materials removed from the Site shall be disposed of or treated at a facility approved by the On-Scene Coordinator and in accordance with the Resource Conservation and Recovery Act of 1976 (RCRA), 42 U.S.C. Section 6901, et seq., as amended, the U.S. EPA Revised Off-Site Policy, and all other applicable Federal, State, and local requirements.

6. On or before the effective date of this Order, the Respondent shall designate a Project Coordinator. The U.S. EPA has designated Vernet Simon, of the Emergency and Enforcement Response Branch, Response Section III, as its On-Scene Coordinator. The On-Scene Coordinator and the Project Coordinator shall be responsible for overseeing the implementation of this Order. To the maximum extent possible, communication between the Respondent and the U.S. EPA, and all documents, reports and approvals, and all other correspondence concerning the activities relevant to this Order, shall be directed through the On-Scene Coordinator and the Project Coordinator. During implementation of the Work Plan, the OSC and the Project Coordinator shall, whenever possible, operate by consensus, and shall attempt in good faith to resolve disputes informally through discussion of the issues.

7. The U.S. EPA and the Respondent shall each have the right to change their respective designated On-Scene Coordinator or Project Coordinator. U.S. EPA shall notify the Respondent, and

Respondent shall notify U.S. EPA, as early as possible before such a change is made. Notification may initially be verbal, but shall promptly be reduced to writing.

8. The U.S. EPA On-Scene Coordinator shall have the authority vested in an On-Scene Coordinator by the NCP, 40 CFR Part 300, as amended, including the authority to halt, conduct, or direct any work required by this Order, or to direct any other response action undertaken by U.S. EPA or the Respondent at the facility.

9. No extensions to the time frames in this Order shall be granted without sufficient cause. All extensions must be requested, in writing, and shall not be deemed accepted unless approved, in writing, by U.S. EPA.

10. This Order and all instructions by the U.S. EPA On-Scene Coordinator or designated alternate that are consistent with the National Contingency Plan and this Order shall be binding upon the Respondent, and the employees, agents, contractors, successors and assigns of the Respondent.

11. To the extent that the Facility or other areas where work under this Order is to be performed is owned by, or in possession of, someone other than the Respondent, Respondent shall attempt to obtain all necessary access agreements. In the event that after using it's best efforts the Respondent is unable to obtain such agreements, Respondent shall immediately notify U.S. EPA and U.S. EPA may then assist Respondent in gaining access, to the extent necessary to effectuate the response activities described herein, using such means as it deems appropriate.

12. Respondent shall provide access to the Facility to U.S. EPA employees, and U.S. EPA-authorized contractors, agents, and consultants at any time, and shall permit such persons to be present and move freely in the area in order to conduct inspections, including taking photographs and videotapes of the Facility, to do cleanup/stabilization work, to take samples, to monitor the work under this Order, and to conduct other activities which the U.S. EPA determines to be necessary.

13. This Order shall be effective on the date of signature by the Director, Waste Management Division.

14. Respondent shall provide a written monthly progress report to the On-Scene Coordinator regarding the actions and activities undertaken under this Order. At a minimum, these progress reports shall describe the actions that have been taken to comply with this Order, including all results of sampling and tests received or prepared by the Respondent and shall describe all significant work items planned for the next month.

15. Respondent agrees to retain for six years following completion of the activities required by this Order copies of all records, files and data relating to hazardous substances found on the Site, or related to the activities undertaken pursuant to this Order, whether or not those documents were created pursuant to this Order. Respondent shall acquire and retain copies of all documents relating to the Site that are in the possession of its contractors, agents and employees. Respondent shall notify U.S. EPA at least sixty (60) calendar days before any documents retained under this paragraph are to be destroyed. The documents retained under this paragraph shall be made available to the U.S. EPA upon request.

16. The United States reserves its right to seek reimbursement from the Respondent of all past costs and oversight costs it incurs with regards to the Lindsay Light II Site that are not inconsistent with the National Contingency Plan. Nothing in this Order shall be construed as a waiver of that right.

17. A notice, document, information, report, plan, approval, disapproval or other correspondence required to be submitted from one party to another under the Order shall be deemed submitted either when hand delivered or as of the date of receipt by certified mail, return receipt requested.

Submissions to the Respondent shall be submitted to:

The Chicago Dock & Canal Trust  
c/o Mr. Charles Gardner, President  
455 East Illinois Street  
Suite 565  
Chicago, Illinois 60611

Submissions to the U.S. EPA shall be submitted to:

Verneta Simon  
On-Scene Coordinator  
U.S. Environmental Protection Agency  
77 West Jackson Boulevard, HSE-5J  
Chicago, Illinois 60604

18. If any provision of this Order is deemed invalid or unenforceable, the remainder of this Order shall remain in full force and effect.

#### STIPULATED PENALTIES

19. For each day the Respondent fails to meet the deadlines set forth in the Consent Order and Work Plan, Respondent shall be liable as follows:



## Penalty For:

	<u>First Week or Part Thereof</u>	<u>Each Following Week or Part Thereof</u>
Failure to Submit the Work Plan, Site Safety and Health Plan, Sampling and Analysis Plan or the Schedule of Work to be Performed	\$1,000	\$1,750
Failure to Commence Implementation of the Work Plan	\$1,000	\$1,750
Failure to Meet any Scheduled Deadline in the Work Plan	\$1,000	\$1,750
Failure to Submit Monthly Reports	\$ 250	\$ 400

20. All penalties which accrue pursuant to the requirements of this Order shall be paid within fifteen (15) business days of written demand by U.S. EPA. Payment shall be made to the EPA Hazardous Substances Superfund delivered to the U.S. EPA, Attn: Superfund Accounting, P.O. Box 70753, Chicago, Illinois 60673, in the form of a certified or cashier's check payable to "EPA Hazardous Substances Superfund." The face of the check should note that the payment is for the Lindsay Light II Site.

21. Pursuant to 31 U.S.C. Section 3717, interest shall accrue on any amount of overdue stipulated penalties at a rate established by the United States Treasury. Stipulated penalties shall accrue, but need not be paid, during any dispute resolution period concerning the particular penalties at issue. If Respondent prevails upon resolution, Respondent shall pay only such penalties as the resolution requires.

22. Payment of Stipulated Penalties will not relieve Respondent from complying with the terms of this Consent Order. U.S. EPA retains the right to seek any remedies or sanctions available to U.S. EPA by reason of Respondent's noncompliance with the provisions of this Consent Order that are not otherwise expressly limited by these Stipulated Penalty provisions.

### PENALTIES FOR NONCOMPLIANCE

23. Respondent is advised pursuant to Section 106(b) of CERCLA, 42 U.S.C. Section 9606(b), that violation or subsequent failure or refusal to comply with this Order and any Work Plan approved under this Order, or any portion thereof, may subject the Respondent to a civil penalty of no more than \$25,000 per day for each day in which such violation occurs, or such failure to comply continues. In addition, failure to properly provide investigation and sampling actions upon the terms of this order, or other subsequent orders issued by U.S. EPA, may result in liability for punitive damages pursuant to Section 107(c)(3) of CERCLA, 42 U.S.C. Section 9607(c)(3).

### TERMINATION AND SATISFACTION

24. The Respondent shall submit a final report summarizing the actions taken to comply with this Order. The report shall contain, at a minimum: identification of the facility, a description of the locations and types of hazardous substances encountered at the facility upon the initiation of work performed under this Order, a chronology and description of the actions performed (including both the organization and implementation of response activities), a listing of the resources committed to perform the work under this Order (including financial, personnel, mechanical and technological resources), identification of all items that affected the actions performed under the Order and discussion of how all problems were resolved, a listing of quantities and types of materials removed, a discussion of removal and disposal options considered for those materials, a listing of the ultimate destination of those materials, and a presentation of the analytical results of all sampling and analyses performed and accompanying appendices containing all relevant paperwork accrued during the action (e.g., manifests, invoices, bills, contracts, permits). The final report shall also include an affidavit from a person who supervised or directed the preparation of that report. The affidavit shall certify under penalty of law that based on personal knowledge and appropriate inquiries of all other persons involved in preparation of the report, the information submitted is true, accurate and complete to the best of the affiant's knowledge and belief. The report shall be submitted within sixty (60) calendar days of completion of the work required by the U.S. EPA.

25. The provisions of this Order shall be deemed satisfied upon payment by Respondent of all sums due under the terms of this Order and upon the Respondent's receipt of written notice from U.S. EPA that the Respondent has demonstrated, to the satisfaction of U.S. EPA, that all of the terms of this Order,

including any additional tasks consistent with this Consent Order which U.S. EPA has determined to be necessary, have been completed.

#### INDEMNIFICATION

26. The Respondent agrees to indemnify and save and hold harmless the United States Government, its agencies, departments, agents, and employees, from any and all claims or causes of action arising from, or on account of, acts or omissions of the Respondent, its officers, employees, receivers, trustees, agents, successors or assigns, in carrying out the activities pursuant to this Order. The United States Government shall not be held as a party to any contract entered into by the Respondent in carrying out activities under this Order.

#### RESERVATION OF RIGHTS

27. This Order is not intended for the benefit of any third party and may not be enforced by any third party.

28. The U.S. EPA and the Respondent reserve all rights, claims, demands, and defenses, including defenses and denials of and to all determinations and findings, that they may have as to each other except as otherwise provided in this Order pursuant to any available legal authority. Nothing in this Order shall expand the Respondent's ability to obtain pre-enforcement review of U.S. EPA actions. Notwithstanding any reservation of rights, Respondent agrees to comply with the terms and conditions of this Order and consents to the jurisdiction of the U.S. EPA to enter into and enforce this Order.

29. Nothing herein is intended to release, discharge, limit or in any way affect any claim, causes of action or demands in law or equity which the parties may have against any persons, firm, trust, joint venture, partnership, corporation, or other entity not a party to this Order for any liability it may have arising out of, or relating in any way to, the generation, storage, treatment, handling, transportation, disposal, release or threat of release of any hazardous substance, hazardous waste, contaminant or pollutant at or from the Site. The parties to this Order hereby expressly reserve all rights, claims, demands and causes of action they may have against any and all other persons and entities who are not parties to this Order.

30. Nothing herein shall be construed: 1) to prevent U.S. EPA from exercising its right to disapprove of work performed by the Respondent; 2) to prevent U.S. EPA from seeking legal or equitable relief to enforce the terms of this order; 3) to prevent U.S. EPA from taking other legal or equitable action not

inconsistent with the Covenant Not To Sue in Paragraphs 41 through 43 of this Order; 4) to prevent U.S. EPA from requiring the Respondent in the future to perform additional activities pursuant to CERCLA, 42 U.S.C. Section 9601 et seq., or any other applicable law; or 5) to prevent U.S. EPA from undertaking response actions at the Site.

#### FORCE MAJEURE

31. The Respondent shall cause all work to be performed within the time limits set forth herein and in the approved Work Plan, unless performance is delayed by "force majeure". For purposes of this Order, "force majeure" shall mean an event arising from causes entirely beyond the control of the Respondent and its contractors which delays or prevents the performance of any obligation required by this Order. Increases in costs, financial difficulty, and normal inclement weather are examples of events that are not considered to be beyond the control of the Respondent.

32. Respondent shall notify the OSC within 24 hours after Respondent becomes aware of any event which Respondent contends constitutes a force majeure, with subsequent written notice within seven (7) calendar days of the event. Such written notice shall describe: 1) the nature of the delay, 2) the cause of the delay, 3) the expected duration of the delay, including any demobilization and remobilization resulting from the delay, 4) the actions which will be taken to prevent or mitigate further delay, and 5) the timetable by which the actions to mitigate the delay will be taken. Respondent shall implement all reasonable measures to avoid and/or minimize such delays. Failure to comply with the notice provision of this paragraph shall be grounds for U.S. EPA to deny Respondent an extension of time for performance. The Respondent shall have the burden of demonstrating by a preponderance of the evidence that the event is a force majeure, that the delay is warranted under the circumstances, and that best efforts were exercised to avoid and mitigate the effects of the delay. If U.S. EPA determines a delay is or was attributable to a force majeure, the time period for performance under this Order shall be extended as deemed necessary by the OSC to allow performance.

#### DISPUTE RESOLUTION

33. The Parties to this Order on Consent shall attempt to resolve expeditiously and informally any disagreements concerning implementation of this Order on Consent or any work required hereunder.

34. In the event that any dispute arising under this Order on Consent is not resolved expeditiously through informal means, any party desiring dispute resolution under this Section shall give prompt written notice to the other parties to the Order.

35. Within ten (10) calendar days of the service of notice of dispute pursuant to Paragraph 34 above, the party who gave notice shall serve on the other parties to this Order a written statement of the issues in dispute, the relevant facts upon which the dispute is based, and factual data, analysis or opinion supporting its position, and all supporting documentation on which such party relies (hereinafter the "Statement of Position"). The opposing parties shall serve their Statement of Position, including supporting documentation, no later than ten (10) calendar days after receipt of the complaining party's Statement of Position. In the event that these 10-day time periods for exchange of Statements of Position may cause a delay in the work, they shall be shortened upon and in accordance with notice by U.S. EPA.

36. An administrative record of any dispute under this Section shall be maintained by U.S. EPA. The record shall include the written notification of such dispute, and the Statements of Position served pursuant to the preceding paragraphs.

37. Upon review of the administrative record, the Director of the Waste Management Division, U.S. EPA, Region V, shall resolve the dispute consistent with the NCP and the terms of this Order.

#### NON-ADMISSION

38. The consent of the Respondent to the terms of this Order shall not constitute or be construed as an admission of liability or of U.S. EPA's findings or determinations contained in this Order in any proceeding other than a proceeding to enforce the terms of this Order.

#### CERCLA FUNDING

39. The Respondent waives any claims or demands for compensation or payment under Sections 106(b), 111 and 112 of CERCLA against the United States or the Hazardous Substance Superfund established by 26 U.S.C. §9507 for, or arising out of, any activity performed or expenses incurred pursuant to this Consent Order.

40. This Consent Order does not constitute any decision on preauthorization of funds under Section 111(a)(2) of CERCLA.

#### COVENANT NOT TO SUE

41. Upon termination and satisfaction of this Administrative Order pursuant to its terms, for and in consideration of the complete and timely performance by Respondent of the obligations agreed to in this Order, U.S. EPA hereby covenants not to sue Respondent for judicial imposition of damages or civil penalties for any failure to perform obligations agreed to in this Order except as otherwise reserved herein.

42. Performance of the terms of this Order resolves and satisfies the liability of the Respondent to U.S. EPA for work satisfactorily performed under this Order. U.S. EPA recognizes that, pursuant to Section 113 of CERCLA, the Respondent, upon having resolved its liability with the U.S. EPA for the matters expressly covered by this Order, shall not be liable for claims for contribution regarding matters addressed in this Order. Nothing in this Order precludes the Respondent from asserting any claims, causes of action or demands against potentially responsible parties (PRPs) who are not parties to this Order for indemnification, contribution, or cost recovery.

43. In consideration of the actions to be performed by the Respondent under this Order, the U.S. EPA covenants not to sue the Respondent, its successors or assigns for any and all claims which are available to the U.S. as against the Respondent under Sections 106 and 107 of CERCLA concerning all matters satisfactorily performed.

#### SUBSEQUENT AMENDMENT

44. This Consent Order may be amended by mutual agreement of U.S. EPA and the Respondent. Any amendment of this Consent Order shall be in writing, signed by U.S. EPA and the Respondent and shall have as the effective date, that date on which such amendment is signed by U.S. EPA.

LINDSAY LIGHT II SITE  
CHICAGO, ILLINOIS

SIGNATORIES

Each undersigned representative of a signatory to this Administrative Order on Consent certifies that he or she is fully authorized to enter into the terms and conditions of this Order and to bind such signatory, its directors, officers, employees, agents, successors and assigns, to this document.

Agreed this 10<sup>th</sup> day of January, 1994.

By Charles K. Rasmussen President  
The Chicago Dock & Canal Trust

The above being agreed and consented to, it is so ORDERED  
this 27th day of January, 1994.

By William E. Muno  
William E. Muno, Director  
Waste Management Division  
U.S. Environmental Protection Agency  
Region V, Complainant

bcc: Docket Analyst, ORC (CS-3T)  
Marc Radell, ORC (CS-3T)  
Verneta Simon, OCC (HSE-5J)  
Debbie Regel, ESS (HSE-5J)  
Jose Cisneros, ESS (HSE-5J)  
Mary Ellen Ryan, SFAS (MF-10J)  
Oliver Warnsley, CRS (HSM-5J)  
EERB Site File  
EERB Read File  
Toni Lesser, Public Affairs (P-19J) w/out attachments  
Sheila Huff, Department of Interior  
Larry Jensen, ARD (AT-18J)



STATE SUPERFUND COORDINATORS:

Illinois:

Gary King, Deputy Manager  
Division of Land Pollution Control  
Illinois Environmental Protection  
Agency  
2200 Churchill Road  
Springfield, Illinois 62706

Minnesota:

James L. Warner, Chief  
Groundwater and Solid Waste  
Division  
Minnesota Pollution  
Control Agency  
520 Lafayette Road  
St. Paul, Minnesota 55155

Indiana:

Greta J. Hawvermale  
Assistant Commissioner for  
Environmental Response  
Indiana Department of  
Environmental Management  
P.O. Box 6015, Room 1255N  
Indianapolis, Indiana 46206-6015

Ohio:

Janice A. Carlson  
Acting Chief  
Division of Emergency & Remedial  
Response  
Ohio Environmental Protection  
Agency  
1800 WaterMark Drive  
Columbus, Ohio 43266-0149

Michigan:

Alan Howard, Chief  
Environmental Response Division  
Michigan Department of Natural  
Resources  
Stevens T. Mason Building  
P.O. Box 30028  
Lansing, Michigan 48909

Wisconsin:

Paul P. Didier, Director  
Wisconsin Department of  
Natural Resources  
P.O. Box 7921  
101 South Webster Street  
Madison, Wisconsin 53707